



COMMISSIONER'S COMMENTS

G. Edward Leary, Commissioner

DFI MAKES CHANGES

As we all know, we have a new Governor, Jon M. Huntsman Jr. As part of the transition, Governor Huntsman appointed Transition Advisory Committees over each department to assess priorities, efficiencies and talent. I was told that among other interviews and consultations with peers and federal agencies, the major industries that DFI regulates were asked for written input. For those of you who supported my retention as Commissioner, I most humbly say, "Thank You." I am sure largely as a result of the indications of support from some industries and input from others, the Governor

continued on page 2 . . .

Chiefly Speaking

Michael Jones, Chief Examiner

PASSAGE OF TIME

How time passes. I don't know how many of you realized in December the similarities that 2004 had with 1999, and the difference five years has made.

A couple of months ago, I was straightening up my office when I came across a binder containing the Department's Year 2000 Rollover Weekend information and records. The binder contained contingency and business resumption plans for the Department, the State, the federal bank and credit union regulatory agencies, and several other sources. There was depository institution emergency contact information, as well as the charts used by the Department to track our January 1st reporting information. There was even an article showing an hour-by-hour time zone breakdown of when cities, countries, and islands would rollover to year 2000.

What memories these documents brought back. December 31st of 1999 and 2004 both fell on the same day of the week: Friday. However, the two days, five years apart, could not have been more different.

On December 31, 1999, even though it was the observed holiday for state employees, the Department was open and operating. There was a heightened sense of tension and anticipation in everything that happened that day. When we opened the doors that day, we already knew that the Christmas Islands, Tonga, New Zealand, Fiji, Eastern Russia, Japan, Korea, and a vast part of Australia had successfully passed midnight and were experiencing little or no problems with their computer rollover. As the workday progressed, the tension and anticipation subsided, as one time zone after another rolled over to January 1st without any notable problems. By the time we left the office, we were quite positive that Utah's depository institutions would make the Year 2000 Rollover without any major concerns.

continued on page 2 . . .

Inside This Issue

- 3 Application Activity Report
- 4 Public Funds Management
- 6 Corporate Status

... **Leary**, continued from page 1

extended an offer for me to serve in his administration.

As part of this change in Administration, Governor Huntsman challenged the new department heads to review our departments and take those actions that would enhance performance. Therefore, I have spent some time reviewing all aspects of the department's performance. My goal in this analysis and review was to determine if there was a better way to organize the department, including a review of personnel assignments, to accomplish our statutory mandates. In discussions, with Michael Jones, the Chief Examiner and Paul Allred, Deputy Commissioner, I laid out various options and structural changes that I thought would improve the department's performance. I considered their thoughts and concerns. In some cases, we discussed if there is a better way of reorganizing to accomplish the task or if a slight modification in how we perform the task would result in desired improvements.

These were not easy discussions. All of us have a natural resistance to change. Described below are the changes we believe will help us improve. I asked for our employees' support of the people affected in these changes, and will ask the industries that we supervise to support those employees as they adapt to new assignments. The changes are effective as of January 31, 2005, and are the extent of actions that I anticipate at this point.

Paul Allred, Deputy Commissioner, will assume supervisory responsibility for the department's non-depository industries, reporting to the Commissioner. The Supervisor of Consumer Credit and Compliance, Eva Rees, and the Supervisor of Savings Banks and Trusts, Jerry Jaramillo (largely as a result of the payday lender and title lender functions), will report to, and be evaluated by Paul. Paul will participate in the Examiner Scheduling sessions with the

Supervisors. Michael Jones, Chief Examiner, will retain the Training Coordinator function.

Jim Thomas has been reassigned as a **Senior Examiner** taking his considerable knowledge, skills and experience to the field and directly to the institutions we supervise and regulate. It will also shorten his commute on most days.

Tom Bay has been designated as the **Supervisor of Banks**. The transition with Jim will occur over the new few weeks.

I have asked **Kim Pryor** to assume the vacant position of the **Commissioner's Administrative Secretary** and she has accepted.

In the short run, we will contract with a temporary employment agency under a state contract for a receptionist. After the legislative session we will work on a more permanent arrangement.

If you have any questions or comments, please feel free to contact me.~

... **Jones**, continued from page 1

December 31, 2004 was again an observed holiday for state employees. However, this day was very much different from that day in 1999. There was no tension or anticipation around the office. There was certainty that the day was going to be uneventful, as everyone was off on holiday leave. It was nice knowing there wasn't any world-wide crisis looming at the stroke of midnight.

The Year 2000 Rollover Weekend was exciting to have experienced. It was good to know that, with a proper amount of planning, effort, and cooperation, disruptions can be anticipated, addressed, and resolved before they occur. However, given the differences between December 31, 1999 and December 31, 2004, I am glad to have the century date change event five years behind me.~

Application Activity Report
 Utah Department of Financial Institutions
For the quarter ending December 31, 2004

Branch Approval	Address	Received	Status
Horizon Credit Union	37 East 100 North, Kaysville	12/12/03	Opened 10/20/04
Transportation Alliance Bank	1605 E Saddleback Blvd, Ogden	3/1/04	Approved 6/18/04
Pacific Horizon Credit Union	586 N Main, Payson	6/8/04	Opened 10/20/04
Transwest Credit Union	2277 E Ft Union Blvd, Midvale	8/16/04	Approved 8/30/04
Utah Central Credit Union	5625 W 13100 S, Herriman	8/17/04	Approved 8/31/04
Intermountain Credit Union	7859 S 3200 W, West Jordan	10/12/04	Approved 11/18/04
Members First Credit Union	120 E 1000 S, Brigham City	10/22/04	Approved 11/23/04
Salt Lake Schools Credit Union	all existing shared branches	11/19/04	Approved 12/3/04
Utah Independent Bank	120 N Main, Monroe	12/10/04	Approved 12/21/04

Relocations	Address	Received	Status
America West Bank	from 1010 N Hillfield Rd, Layton to 476 W Heritage Blvd, Layton	3/19/04	Relocated 10/12/04
Bank of American Fork	from 408 E 12300 S, Draper to 700 E 12300 S, Draper	11/3/04	Approved 11/15/04

Merger	Received	Status
Utah Peavey Federal Credit Union into Weber Credit Union	11/24/04	Approved 12/27/04

De Novo Charter	Address	Received	Status
ComData	500 N Market Place Dr. #250 Centerville	8/18/03	Approved 12/19/03
	Extension	11/12/04	Accepted 11/19/04

continued on page 4 . . .

. . . **Application**, continued from page 3

Prime Alliance Bank	1870 S 500 W Woods Cross	7/6/04	Opened 12/22/04
Allegiance Direct Bank	136 W Center St Cedar City	10/19/04	Accepted 12/1/04
Magnet Bank	2825 E Cottonwood Pkwy #180 Salt Lake City	12/15/04	
Lehman Brothers Commercial Bank	2825 E Cottonwood Pkwy #535 Salt Lake City	12/22/04	

Loan Production Office		Received	Status
Bank of the West	503 N 400 W, Salt Lake City	5/19/04	Approved 6/1/04
America West Bank	3340 Harrison Blvd, Ogden	5/18/04	Approved 6/1/04
Centennial Bank	St George	7/26/04	Approved 8/2/04
America West Bank	10670 S 1300 E, Sandy	8/16/04	Approved 8/24/04

NOTE: The following article was authored by Jim Thomas prior to the Department changes announced by the Commissioner in his article on page one. Tom Bay is currently Supervisor of Banks.

Public Funds Management

Jim Thomas, Supervisor of Banks

In reaction to the potential losses that Public Treasurers could incur because of the closure of Bank of Ephraim, the Utah Money Management Council is proposing changes. These changes will be made through statute and rule, and will impact all institutions participating in the Money Management Program.

Utah is very unique in its management of public funds in that it uses an allotment system whereby financial institutions wishing to participate by holding public funds deposits are qualified and assigned an allotment. The institutions can then hold uninsured public funds deposits up to the allotment amount without pledging securities as protection against loss to the public funds deposits. All but one other state requires that uninsured public funds deposits are protected at all times by securities pledged as collateral. Rule 11 of the Money Management Act provides the framework for establishing the maximum amount

continued on page 5 . . .

... **Thomas**, continued from page 4

an institution can hold in uninsured public funds (the allotment). The significant changes in Rule 11 are outlined in the chart below:

	Previous Rule:	Proposed Rule:
Capital:	Adjusted Capital = Total Capital minus 40% of non performing assets (loans 90days or more delinquent, non-accrual loans, and O.R.E.O.)	Tier 1 Capital as defined by FDI Act CFR Chapter III, § 325.2, or Thrift Supervision in CFR Chapter V, § 565.2. For Credit Unions Tier 1 Capital = Undivided Earnings, Regular Reserves, Other Reserves appropriated from Undivided Earnings and Net Profit not included in Undivided Earnings.
Allotment without a CPA Audit or a CPA Audit with Qualified Opinion:	If Adjusted Capital was 5% or more, the allotment was two times adjusted Capital. or If Adjusted Capital was between 3.5% and 5%, the allotment was one times adjusted Capital. or If Adjusted Capital was below 3.5%, the allotment was zero and required securities to be pledged.	If Tier 1 Capital is 5% or more the allotment will be one times Tier 1 Capital. or If Tier 1 Capital is between 3.5% and 5% the allotment will be 50% of Tier 1 Capital. or If Tier 1 Capital is below 3.5%, the allotment will be zero and will require securities to be pledged.
Allotment with a CPA Audit with Unqualified Opinion:	If Adjusted Capital was 4.5% or more, the allotment was two times Adjusted Capital. or If Adjusted Capital was between 3% and 4.49%, the allotment was one times Adjusted Capital. or If Adjusted Capital was below 3%, the allotment was zero and required securities be pledged.	If Tier 1Capital is 5% or more, the allotment will be 1.5 times Tier 1 Capital. or If Tier 1 Capital is between 3.5% and 4.99%, the allotment will be 75% of Tier 1 Capital. or If Tier 1 Capital is below 3.5%, the allotment will be zero and will require securities to be pledged.

continued on page 6 . . .

. . . **Thomas**, continued from page 5

Because of very strong capital positions of all our institutions involved in the Utah Money Management Program, the impact of the CPA audit had become a non-factor in computing the allotment. Every institution had adjusted capital positions above 5.0% and they all qualified for the maximum allotment of two times their adjusted capital. The State Money Management Council in the proposed rule change has expressed their opinion about the importance of external CPA audits.

The new level of importance given to external CPA audits should be reviewed by all institutions that participate in the State's Money Management Program. Those of you who use public funds as part of your funding strategy will want to review the new rule very closely. Projections have been made as to the impact of the new rule on our institutions. It appears that two banks will have some problems by simply converting from total capital to Tier 1 capital computations. Without a CPA audit having unqualified opinions, but with Tier 1 capital over 5%; one additional bank and one credit union would be required to pledge securities. If, however, Tier 1 capital drops below 5%, nine institutions would have a pledging requirement and at least 4 more institutions are very close. These projections were based on November's deposits which are generally the highest because of property tax collections.

The new rule also increases the reporting burden for both the institutions and the Department of Financial Institutions. We currently receive a few copies of external CPA audits. Usually they are submitted with a request that they be substituted for the Director's Audit required by Section 7-3-33 of the Utah Code. Under the new rule CPA audits will need to be filed with the department within 100 days of the date of the audit, or the institution will be treated as un-audited.~

CORPORATE STATUS

It is the responsibility of each financial institution to ensure that the information on file with the Department of Commerce is accurate. If your mailing address or registered agent changes, and you do not file a change form with the Division of Corporations, your next annual renewal form may be returned as undeliverable. The approval by the Department of Financial Institutions of your application to relocate your main office does not update the Division of Corporations records. If you fail to file the annual renewal, your corporate status may expire. There could be serious legal problems if your status as a legal entity were to be dissolved.

You can file forms to change your address or registered agent online at www.Utah.gov. You can also check your corporate status online at this site.~

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the Department
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